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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
| 09/508,057      | 03/07/00    | BINGEL               | C 0732-970223       |

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HM12/0313

EXAMINER

NAZARIO GONZALEZ, P

ART UNIT

PAPER NUMBER

1621

DATE MAILED: 03/13/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/508,057**

Applicant(s)  
**Bingel et al.**

Examiner  
**Porfirio Nazario-Gonzalez**

Group Art Unit  
**1621**



☒ Responsive to communication(s) filed on Jan 31, 2001

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1 and 2 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1 and 2 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Response to Amendment***

1. In view of the amendment filed January 31, 2001, the rejection of claim 3 under 35 U.S.C. § 101 and the rejections of claims 1-3 under 35 U.S.C. § 112, second paragraph are withdrawn by the examiner.

### ***Response to Arguments***

2. Applicant's arguments filed January 31, 2001 traversing the rejection of claims 1-3 under 35 U.S.C. § 103(a) as been obvious over EP 0 416 815 in view of U.S. Pat. No. 5,264,590 have been fully considered but they are not persuasive. Applicants argued that the instant invention can be used to make metallocene compounds in high yields. Example 104 of the '815 EP patent (page 37, lines 15-21) also produces a metallocene in high yields (approximately 96%). However, the '590 U.S. patent does expressly teaches that the compounds of the formula  $\text{TiCl}_3(\text{DME})_{1.5}$ , which DME represents ethylene glycol dimethyl ether, can be used as precursor for metallocene compounds. Therefore, one skilled in the art would be motivated to substitute the  $\text{TiCl}_3(\text{THF})_3$  adducts in the '815 EP patent with the compounds disclosed in the '590 U.S. patent. Thus, claims 1 and 2 stand rejected under 35 U.S.C. § 103(a) as been obvious over EP 0 416 815 in view of U.S. Pat. No. 5,264,590.

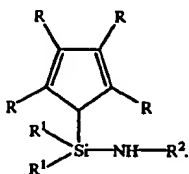
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*Interference*

3. The following claim number 10 from U.S. Patent No. 6,015,916 is suggested to applicant under 35 U.S.C. 135(a) for the purposes of an interference:

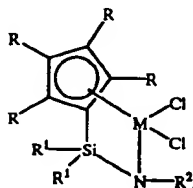
10. A method which comprises:

(i) reacting an alkali salt of a compound of Formula I



with a slurry of a TiCl<sub>4</sub>.DME adduct in a non-interfering medium

wherein a reaction mixture containing a compound of Formula II



is produced.

The suggested claim must be copied exactly, although other claims may be proposed under 37 CFR 1.605(a). Note also claims 11-14 also can be copied along with claim 10..

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Nazario-Gonzalez whose telephone number is (703) 308-4632. The Examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Johann Richter, can be reached on (703) 308-4532. The fax phone number for this Group is (703) 308-4556.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

PNG

March 12, 2001

*Porfirio Nazario Gonzalez*  
PORFIRIO NAZARIO-GONZALEZ  
PRIMARY EXAMINER  
GROUP 1200 1600